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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,040	04/01/2004	Raymond Joseph Keller		6294

7590 12/17/2004  
Raymond J. Keller  
1066 Cessna  
Macedonia, OH 44056

EXAMINER

SMITH, RICHARD A

ART UNIT PAPER NUMBER

2859

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/814,040

Applicant(s)

KELLER ET AL.

Examiner

R. Alexander Smith

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (e) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
  - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
  - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements,

compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

1. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale

by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.

20402.

2. If the Applicant chooses to prosecute the application then the main problems are:

a) The specification is not doubled spaced. All submittals whether abstract, specification, claims or arguments presented by Applicant must be doubled spaced. This allows space for corrections and annotations to be inserted by the Office.

b) The title and the applicant's signatures should not be in the section titled "BRIEF SUMMARY OF INVENTION". Furthermore, --THE-- should be inserted into the title.

c) The "BRIEF DESCRIPTION OF THE DIFFERENT VIEWS OF THE DRAWINGS" is incorrect. It is not a breakout of parts with a description of the parts. It is a description of each of the drawings. The breakout of parts should be in the DETAILED DESCRIPTION OF THE INVENTION.

d) The claims must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

3. A simple version of a specification that the Applicant can model his specification after is U.S. 4,835,523 to Pruett or U.S. 5,514,016 to Larson. Remember to double space all revisions and arguments submitted and do not add new matter. New matter is anything that is not shown or described in the currently submitted specification, abstract or claims.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-7 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are either narrative in form with indefinite and functional or operational language (claim 3) or are not organized and correlated in such a manner as to present a complete operative device (claims 1-7). The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claims 1-7 presented by the Applicant contain limitations regarding the individual parts of the invention but not a complete operative device. Claims 1-7 should be cancelled and a new claim 8 added describing a complete operative device. Claims 1-7 can be resubmitted as claims 9-15 and modified to further describe the individual parts of claim 8.

6. The following are drafted by the examiner and considered to distinguish patentably over the art of record in this application, is presented to applicant for consideration. If the following is taken by the applicant or if some other claim is written by Applicant, then the cancellation of claims 1-7 is required. The Applicant will need to submit new claims starting with claim 8. The text in parenthesis as shown below is required. The new claims 9 and 10 below are revised versions of your claims 1 and 2 respectively for an example as to how to handle the dependent

claims. You can revise claims 3-7 similarly as new claims 11-15 (or more). The listing of claims must start on a separate sheet and follow this format.

This listing of claims will replace all prior versions, and listings, of claims in the application.

**Listing of Claims:**

Claims 1-7 (Canceled).

8. (New) A visual device attachable to a water ski for locating the water ski in the water, said device comprising:

a main body, said main body including a bracket adapted for attachment to a ski and a rotator rotatably coupled to said bracket for 360 degree rotation relative to said bracket, said rotator having a periphery with a top hole and a bottom hole, said bottom hole being located 180 degrees from the top hole on the periphery,

a top spring having an end attached to said top hole and an opposite end carrying a flag wherein said top spring is adapted to flex,

a bottom spring having an end attached to said bottom hole and an opposite end carrying a counterweight, said bottom spring having a flexed position and a straighten position wherein said bottom spring is adapted to flex to said flexed position when said visual device is moving through the water and wherein said bottom spring is adapted to straighten to said straighten position when said visual device is substantially not moving through the water,

said counterweight having a weight greater than that of the top spring and the flag so that said flag will rotate to be substantially upright when the visual device is substantially not moving to allow visual detection of the flag and for locating the water ski in the water.

9. (New) The visual device of claim 1 wherein the flag is made of an eight mil clear vinyl, is Day-Glo Red and is in the shape of a triangle; said flag being stitched to the top spring.

10. (New) The visual device of claim 1 wherein the top spring is of 304 stainless steel, two hundreds in diameter and eight inches in length, said end of said bottom spring being screwed into said bottom hole of said rotator.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related devices.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251. The examiner can normally be reached on Monday through Friday from 9:30-6:00.



Art Unit: 2859

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. Alexander Smith', with a stylized, flowing script.

R. Alexander Smith  
Patent Examiner  
Technology Center 2800

RAS  
November 13, 2004